



Exhibits for testimony before a joint hearing of the

Michigan House of Representatives
Family and Children Services Committee
Rep. John Stahl, Chair

And

Michigan Senate
Families and Human Services
Sen. Bill Hardiman, Chair

March 17, 2005
1:00 PM

CHILD CARE ADVISORY COMMITTEE CENTER RULES

Lindy Buch	Michigan Dept. of Education
Kimberly Becker	8 CAP Head Start
Cathy Craig	MI SACA
Kevin Datte	Saginaw Health Department
Suzanne Gamsby	Center Licensee
Garry Goddard	FIA/Office of Legal Affairs
Ann Hill	FIA/OCAL
Amy Henson-bohlen	School Age Child Care
Patricia Hogg	FIA/OCAL
Michelle Holloway	Parent
Jackie Horton	FIA/OCAL
Donna Howe	Michigan Council of Coop Nurseries
Richard Lower	MI Head Start
Jennie McAlpine	Michigan 4C Washtenaw County
Don Mussen	FIA
Keith Myers	MiAEYC
Laurie Nickson	MiAEYC/MECPC
Kathleen Nixon	FIA/OCAL
Jim Perry	DLEG/BCCFS
Margaret Rainer	Center Licensee
Nancy Secor	Head Start
Melody Sievert	FIA/CCD
James Sinnamon	FIA/OCAL
Pat Sorenson	Michigan's Children
Maggie Sprattmoran	Center Licensee
J. Mark Sullivan	MI 4C
Lorraine Thoreson	Michigan Department of Education

CHILD CARE ORGANIZATIONS (EXCERPT)
Act 116 of 1973

722.112 Rules; ad hoc committee; review.

Sec. 2. (1) The department of social services, hereinafter referred to as the "department", is responsible for the development of rules for the care and protection of children in organizations covered by this act and for the promulgation of these rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The department shall establish an ad hoc committee for each type of child care organization as defined in this act when it is formulating or amending rules under this act. The committee shall consist of not less than 12 members, and shall include representatives of the following groups and agencies:

- (a) Department of public health.
- (b) Department of state police, fire marshal division and state fire safety board.
- (c) Department of education.
- (d) Department of mental health.
- (e) Representatives of organizations affected by this act.
- (f) Parents of children affected by this act.

The representatives of organizations affected by this act and parents of children affected by this act shall constitute a majority of the committee membership. The committee shall serve during the period of the formulation of rules, shall have responsibility for making recommendations on the content of rules, and shall recommend to the department revisions in proposed rules at any time before their promulgation.

(3) The rules promulgated under this act shall be restricted to:

(a) The operation and conduct of child care organizations and the responsibility the organizations assume for child care.

(b) The character, suitability, training, and qualifications of applicants and other persons directly responsible for the care and welfare of children served.

(c) The general financial ability and competence of applicants to provide necessary care for children and to maintain prescribed standards.

(d) The number of individuals or staff required to insure adequate supervision and care of the children received.

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards to provide for the physical comfort, care, and well being of the children received. However, the rules with respect to fire prevention and fire safety shall not apply to a child care center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state approved nonpublic school, if the child care center is located in a school building that is approved by the state fire marshal or other similar authority as provided in section 3 of Act No. 306 of the Public Acts of 1937, being section 388.853 of the Michigan Compiled Laws, for school purposes and is in compliance with the school fire safety rules, R 29.1 to R 29.298 of the Michigan administrative code, as determined by the state fire marshal or a fire inspector certified pursuant to section 2b of the fire prevention code, Act No. 207 of the Public Acts of 1941, being section 29.2b of the Michigan Compiled Laws.

(f) Provisions for food, clothing, educational opportunities, programs, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of children served.

(g) Provisions to safeguard the legal rights of children served.

(h) Maintenance of records pertaining to admission, progress, health, and discharge of children.

(i) Filing of reports with the department.

(j) Discipline of children.

(k) Transportation safety.

(4) Rules once promulgated are subject to major review by an ad hoc committee not less than once every 5 years and shall be reviewed biennially by the department. The ad hoc committee shall be established by the department, shall consist of not less than 12 members, and shall include representatives of the groups and agencies indicated in subsection (2). The ad hoc committee shall hold at least 2 public hearings regarding the review of rules and shall report its recommendations regarding rules to the appropriate committees of the legislature.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1983, Act 150, Imd. Eff. July 18, 1983.

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich. 380, 455 N.W.2d 1 (1990).

Excerpt from Executive Order EO 1997-13:

"All the statutory authority, powers, duties, functions and responsibilities of the ad hoc committees created by Section 2(2) of Act No. 116 of the Public Acts of 1973, being Section 722.112(2) et seq. of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Consumer and Industry Services by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and all ad hoc committees created pursuant to this provision are abolished. The Director may at his or her discretion establish advisory committees to review existing rules or proposed changes to rules affecting child care organizations covered by Act No. 116, as amended."

Excerpt from Executive Order EO 2003 – 18:

VII. FAMILY INDEPENDENCE AGENCY

Office of Children and Adult Licensing

A. Any authority, powers, duties, functions, and responsibilities of the Bureau of Family Services, an organizational unit within the Department of Consumer and Industry Services, are transferred by Type II Transfer from the Department of Consumer and Industry Services to the Family Independence Agency, including but not limited to all of the following:

1. Any authority, powers, duties, functions, and responsibilities of management support functions including but not limited to management information systems, facility support, and licensing hearings, except as provided in Section VII.D of this Order.
2. Any authority, powers, duties, functions, and responsibilities of adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation under the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, and 1974 PA 381, MCL 338.41 to 338.47.
3. Any authority, powers, duties, functions, and responsibilities of child welfare, child care organization, child caring institution, child placing organization, children's camp, child care center, day care center, foster family home, foster family group home, family day care home, and group day care home licensing and regulation under 1973 PA 116, MCL 722.111 to 722.128, the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.
4. Any authority, powers, duties, functions, and responsibilities of licensing and regulation of homes for the aged under Article 17 of the Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.

B. The Adult Foster Care Licensing Advisory Council and all of its authority, powers, duties, functions, and responsibilities of the Adult Foster Care Licensing Advisory Council under the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, are transferred by Type II Transfer to the Family Independence Agency.

C. The Director of the Family Independence Agency shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

D. The Director of the Family Independence Agency, after consultation with the Director of the Department of Consumer and Industry Services, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Family Independence Agency and all prescribed functions of rule-making, licensing, and registration, including but not limited to the prescription of rules, regulations, standards, and adjudications, under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, shall be transferred to the Director of the Family Independence Agency. The Bureau of Hearings of the Department of Consumer and Industry Services may continue to conduct hearings for the Bureau of Family Services. The Department of Consumer and Industry Services and the Family Independence Agency shall enter into an interdepartmental agreement providing for the conduct of hearings for the Bureau of Family Services by the Bureau of Hearings.

E. All records, personnel, property, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Department of Consumer and Industry Services for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Family Independence Agency.

F. The Directors of the Family Independence Agency and the Department of Consumer and Industry Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Family Independence Agency.

G. Upon transfer to the Family Independence Agency, the Bureau of Family Services is renamed the Office of Children and Adult Licensing.

EXECUTIVE ORGANIZATION ACT OF 1965 (EXCERPT)
Act 380 of 1965

16.103 Types of transfers; continuation of agencies not enumerated.

Sec. 3. (a) Under this act, a type I transfer means the transferring intact of an existing department, board, commission or agency to a principal department established by this act. When any board, commission, or other agency is transferred to a principal department under a type I transfer, that board, commission or agency shall be administered under the supervision of that principal department. Any board, commission or other agency granted a type I transfer shall exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the head of the department. Under a type I transfer all budgeting, procurement and related management functions of any transferred board, agency or commission shall be performed under the direction and supervision of the head of the principal department.

(b) Under this act, a type II transfer means transferring of an existing department, board, commission or agency to a principal department established by this act. Any department, board, commission or agency assigned to a type II transfer under this act shall have all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, transferred to that principal department.

(c) Under this act, a type III transfer means the abolishing of an existing department, board, commission, or agency and all its statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, are transferred to that principal department as specified under this act.

(d) Any department, board, commission, or agency not enumerated within this act, but established by law within a department, board, commission or agency shall continue within the department, board, commission or agency within which it had previously been established, and shall continue to exercise all its powers, duties and functions within the principal department established by this act.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Transfer of powers: See § 16.732.

Popular name: Act 380

Child Care Centers – Proposed rule highlights and rationale

- **R400.5102a:** Annual training requirements established for all caregivers:

- 8 clock hours in the first year following rule promulgation
- 12 clock hours in the second year
- 16 clock hours in the third year and each year thereafter

Rationale: Data compiled by Wheelock College Institute for Leadership and Career Initiatives for the Children's Defense Fund identifies Michigan as only one of two states with no early childhood training requirements for child care providers.

Children in the care of trained staff exhibit more cooperative behavior, higher levels of language skills and general knowledge, and greater task persistence. Training enables caregivers to provide children with a variety of learning and social experiences appropriate to the age of the child. Caregivers with specific training in early childhood education are less likely to be harsh, are more responsive, and provide more developmentally appropriate care.

- **R400.5103:** Increased qualifications for program director

Rationale: The program director of a child care center is the "team leader" of a small business. Both administrative and child development skills are essential for this individual to manage the facility. Research shows that when early childhood professionals are well prepared, children are likely to experience warm, safe, and stimulating environments that lead to healthy development and constructive learning. College-level coursework has been shown to have a measurable, positive effect on quality child care.

- **R400.5103a:** Established the position of "Lead Caregiver" for each room; identified qualifications for "lead caregiver"

Rationale: Child care that promotes healthy child development is based on the developmental needs of the children cared for. Lead caregivers have greater knowledge of, and ability to respond appropriately to, the needs of children they are responsible for.

- **R400.5105, R400.5105c; R400.5201, R400.5201a; R400.5303a:** Changes made in caregiver to child ratios; establish group size requirements:

Rationale: Low caregiver to child ratios are important for all children, but are most critical for infants and toddlers. Infant development and caregiving quality improves when group size and caregiver/child ratios are smaller. Improved verbal interactions are correlated with lower ratios.

Group size refers to the total size of the group in which a child spends the day, with one or several caregivers. Children in smaller groups benefit from social interactions with peers. Larger groups are generally associated with less responsive care; more restrictive caregivers; less cooperative, more hostile, children who talk less, cry more, are more engaged in aimless wandering. Larger groups are also associated with higher rates of infectious illness.

- **R400.5106(4), (5):** Prohibits television and movies with violent or adult content; limits the use of computers and other electronic devices

Rationale: *In 1994, the National Association for the Education of Young Children (NAEYC) published a Position Statement on this issue. In part, it states that "there has been an increase in the amount and severity of violent acts observed by children through the media, including television, movies, computer games, and videotapes, and an increase in the manufacture and distribution of weapon-like toys and other products directly linked to violent programming. NAEYC believes the trend toward increased depiction of violence in the media jeopardizes the healthy development of significant numbers of our nation's children."*

The use of computers and electronic devices should not replace or disrupt existing program routines. Excessive screen time and repetitive motions can cause visual, fine motor and other physical problems.

- **R400.5202:** Social-emotional well-being of infants/toddlers addressed

Rationale: *Social-emotional well-being is the developing capacity to experience and regulate emotions, form secure relationships, and explore and learn. Research shows that critical brain connections in the early years are primarily formed by attentive care and nurturing stimulation by caregivers.*

- **R400.5204:** Bedding requirements must conform to Consumer Product Safety Commission (CPSC) and Sudden Infant Death Syndrome (SIDS) American Academy of Pediatrics recommendations.

Rationale: *Research has shown that placing a baby to sleep on soft mattresses or other soft surfaces can increase the risk of SIDS. Babies have been found dead on their stomachs with their faces, noses, and mouths covered by soft bedding, such as pillows, quilts, comforters, and sheepskins. Some babies have been found dead with their heads covered by soft bedding even while sleeping on their backs.*

- **R400.5204(9):** Prohibit stacking cribs

Rationale: *The American Academy of Pediatrics(AAP) – stacking cribs limits the visual stimulation infants receive while in a crib. When cribs have little or no spacing between them, as is the case with stacking cribs, the likelihood spread of infectious disease is increased. There is also an issue with the stability of these cribs when they are not secured properly.*

- **R400.5204a:** Infant sleeping and supervision requirements are based on American Academy of Pediatrics recommendations.

Rationale: *Conditions conducive to rest and sleep for infants include a consistent caregiver, being dry, well-fed, and comfortable. Since 1992 the American Academy of Pediatrics has recommended that infants sleep on their backs. Placing infants to sleep on their backs instead of their stomachs has been associated with a dramatic decrease in deaths from SIDS. Once infants develop motor skills to move from their back to the side or stomach it is safe to put them to sleep on their backs and allow them to adapt to whatever position makes them comfortable.*

- **R400.5117:** Outdoor playground requirements (surfacing, placement of equipment) to conform with Consumer Product Safety Commission (CPSC) playground recommendations

Rationale: *Each year, about 200,000 children are treated in U.S. hospital emergency rooms for playground equipment-related injuries. On average, there are 15 child deaths each year as a result of playground equipment-related incidents. Most of the injuries are the result of falls. These are primarily falls to the ground below the equipment.*

Act 16, Public Acts of 1997 (The Playground Equipment Safety Act), requires public playgrounds to comply with CPSC standards.

- **R400.5603:** Prohibition of the use of 15 passenger vans to transport children

Rationale: *From 1993 through 2002, fatalities to children within school buses averaged just over 5 per year; yet, in that same timeframe, fatalities to children in 15-passenger vans averaged 57. The National Transportation Safety Board recommends the use of vehicles built to school bus standards or of multifunction school activity buses, because these vehicles meet safety standards mandating compartmentalized seating, improved emergency exits, stronger rood structures and fuel systems, and better bus body joint strength.*

Act 187, Public Acts of 1990 prohibited the purchase or lease of 11-15 passenger vans for pupil transportation. Pursuant to this act, effective 10/1/2002, the use of these vans was prohibited for transporting children to and from school and school-related activities. If a child care center takes children to school and/or picks them up from school, 11-15 passenger vans may not be used. If these vans are observed transporting children to or from school, any police authority may stop the vehicle and ticket it.